

EXHIBIT 1

IN THE CIRCUIT COURT
THIRD JUDICIAL CIRCUIT
MADISON COUNTY, ILLINOIS

WILLIAM KEVIN TOMERLIN,)	
)	
Plaintiff,)	
)	
v.)	No. 2019L 000074
)	
ARKRAY USA, INC.,)	
Serve: National Registered Agents, Inc.)	
208 S. LaSalle St., Ste. 814)	
Chicago, IL 60604)	
)	
Defendant.)	

COMPLAINT

COUNT I - Negligence

Comes now Plaintiff, William Kevin Tomerlin, by and through his attorney, Ronald A. Roth of the Roth Law Offices, LLC, and for Count I of his Complaint against Defendant, Arkray USA, Inc., states:

1. William Kevin Tomerlin is a resident of Alton, Madison County, Illinois.
2. Arkray USA, Inc., is a foreign corporation with its principal place of business in Edina, Minnesota and incorporated under the laws of the state of Delaware.
3. William Kevin Tomerlin is afflicted with diabetes and because he is diabetic, he requires a glycometer to give him regular readings concerning the amount of glucose in his blood so he can regulate it via injection.
4. In approximately the Fall of 2016, William Kevin Tomerlin obtained a new glycometer from Arkray USA, Inc., so he could continue to monitor his blood sugar and manage his diabetes.

This was a GLUCOCARD Vital Blood Glucos Monitoring System SN 1050-2318430, P/N 1866-01.

5. In or about the first week of February, 2017, the glycometer began giving inaccurate readings to Mr. Tomerlin. Mr. Tomerlin not being medically trained and without the wherewithall to check on the accuracy of the glycometer and gave himself injections based on the readings from the glycometer.

6. Arkray USA, Inc., knew when it provided the glycometer to Mr. Tomerlin that he would rely upon its readings and that inaccurate readings would cause him to administer to himself improper amounts of glucose.

7. Further, Arkray USA, Inc., knew or should have known that the administration of improper amounts of glucose, either too much or too little, could cause Mr. Tomerlin severe injury.

8. Upon information and belief at the time of the injury, Arkray USA, Inc., was aware that this particular model of glycometer was causing injury to patients.

9. Arkray USA, Inc., was negligent at the time and place of the occurrence in one or more of the following ways:

a) sold a glycometer that gave inaccurate readings which it knew or should have known would lead to injury to patients using it;

b) failed to warn of the users of the propensity of the glycometer to give inaccurate readings when it knew of such and that inaccurate readings could lead to injury to patients.

10. On or about February 3, 2017, as a result of the improper administration of glucose, Mr. Tomerlin became ill and was hospitalized at Alton Memorial Hospital in Alton, Illinois. There he suffered a number of adverse symptoms and began to develop hallucinations.

11. Mr. Tomerlin suffered these symptoms because he administered improper doses of

insulin because of the failure of the glycometer manufactured by Defendant to properly monitor his blood sugar levels as the glycometer was designed to do.

12. As a result of the improper levels of glucose administered to Mr. Tomerlin, Mr. Tomerlin suffered severe injuries which have and will cause him to expend funds seeking medical treatment, which has impaired his earning capacity and caused him to lose work and will continue in the future to cause him to lose work, has caused him disability and will continue to cause him disability, has caused him to lose the enjoyment of a normal life and will continue to cause him to do so in the future.

WHEREFORE, Plaintiff prays for judgment against the Defendant in a sum to reasonably and fairly compensate him in a sum more than Fifty Thousand Dollars (\$50,000.00) plus costs of suit.

COUNT II - Product Liability

Comes now Plaintiff, William Kevin Tomerlin, by and through his attorney, Ronald A. Roth of the Roth Law Offices, LLC, and for Count II of his Complaint against Defendant, Arkray USA, Inc., states:

1.-8. Plaintiff repeats and realleges paragraphs 1 through 8 of Count I as and for paragraphs 1-8 of Count II herein.

9. Arkray USA, Inc.'s glycometer was unreasonably dangerous as follows:

a) it failed to accurately record patients glucose levels when a failure to give such accurate readings could lead to injury or death to patients using it;

b) failed to provide a written warning of the propensity of the glycometer to give inaccurate readings.

10. On or about February 3, 2017, as a result of the improper administration of glucose, Mr. Tomerlin became ill and was hospitalized at Alton Memorial Hospital in Alton, Illinois. There he suffered a number of adverse symptoms and began to develop hallucinations.

11. Mr. Tomerlin suffered these symptoms because he administered improper doses of insulin because of the failure of the glycometer manufactured by Defendant to properly monitor his blood sugar levels as the glycometer was designed to do.

12. As a result of the improper levels of glucose administered to Mr. Tomerlin, Mr. Tomerlin suffered severe injuries which have and will cause him to expend funds seeking medical treatment, which has impaired his earning capacity and caused him to lose work and will continue in the future to cause him to lose work, has caused him disability and will continue to cause him disability, has caused him to lose the enjoyment of a normal life and will continue to cause him to do so in the future.

WHEREFORE, Plaintiff prays for judgment against the Defendant in a sum to reasonably and fairly compensate him in a sum more than Fifty Thousand Dollars (\$50,000.00) plus costs of suit.

COUNT III - Breach of Warranty

Comes now Plaintiff, William Kevin Tomerlin, by and through his attorney, Ronald A. Roth of the Roth Law Offices, LLC, and for Count III of his Complaint against Defendant, Arkray USA, Inc., states:

1.-8. Plaintiff repeats and realleges paragraphs 1 through 8 of Count I as and for paragraphs 1-8 of Count III herein.

9. Arkray USA, Inc., breached its implied warranty for a particular purpose in that it:

- a) warranted that the glycometer would give accurate readings; otherwise, people would not purchase the glycometer;
- b) provided a glycometer that provided improper readings;
- c) did not contain any warnings that the glycometer was prone to provide inaccurate readings.

WHEREFORE, Plaintiff prays for judgment against Defendant in the sum to reasonably and fairly compensate him in a sum more than Fifty Thousand Dollars (\$50,000.00) plus costs of suit.

/S/Ronald A. Roth

Ronald A. Roth #51637

Roth Law Offices, LLC

2421 Corporate Centre Dr., Ste. 200

Granite City, IL 62040

#618/931-5000

Fax #618/931-6474

E-mail: raroeth@rothlaw.com

Attorney for Plaintiff

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE THIRD JUDICIAL CIRCUIT
MADISON COUNTY
155 N. Main St., Edwardsville, IL 62025

SUMMONS

WILLIAM KEVIN TOMERLIN,

Plaintiff,

V.

CASE NO. 2019L 000074

ARKRAY USA, INC.

Serve: National Registered Agents, Inc.

208 S. LaSalle St., Suite 814

Chicago, IL 60604

Defendant.

TO EACH DEFENDANT:

You are hereby summoned and required to answer in this case, or otherwise file your appearance in the Office of the Clerk of this Court at the Madison County Courthouse, 155 N. Main, Edwardsville, Illinois, 62025, within 30 days after service of this Summons, not counting the day of service. IF YOU FAIL TO DO SO, A JUDGMENT OR DECREE BY DEFAULT MAY BE TAKEN AGAINST YOU FOR THE RELIEF SOUGHT IN THE COMPLAINT.

To the Officer:

This Summons must be returned by the Officer or other person to whom it was given for service, with the endorsement of service and fees, if any, immediately after service. If service cannot be made, Summons shall be returned so endorsed.

This Summons may not be served later than 30 days after its date.

WITNESS: 1/18/2019, 2019.

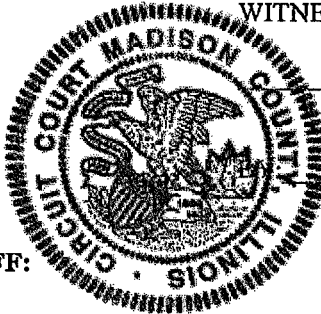
/s/ Mark Von Nida

(Clerk of the Circuit Court)

/s/ Donna Finch

Deputy Clerk

(SEAL)



ATTORNEY FOR PLAINTIFF:

Ronald A. Roth

Roth Law Offices, LLC

2421 Corporate Centre Dr., Ste. 200

Granite City, IL 62040

#618/931-5000

Date of Service: _____, 20____.

(To be inserted by officer on the copy left with the defendant or other person.)

The Madison County Court makes every effort to comply with accessibility laws and provides reasonable accommodations to persons with disabilities. Hearing, visual and other assistance may be arranged by contacting our Court Disability Coordinator, Teri Picchioldi at 618-296-4884.

January 18, 2019

IN THE CIRCUIT COURT
FOR THE THIRD JUDICIAL CIRCUIT
MADISON COUNTY, ILLINOIS

CASE NUMBER: 2019 L 000074

WILLIAM K. TOMERLIN

Plaintiff(s)

VS.

ARKRAY USA INC

Defendant(s)

FILED
JAN 18 2019
CLERK OF CIRCUIT COURT #11
THIRD JUDICIAL CIRCUIT
MADISON COUNTY, ILLINOIS

ASSIGNMENT ORDER

The above case is hereby assigned to the Honorable DENNIS RUTH for setting and disposition.

Clerk to send copies of this Order to the attorneys of record and any pro se party.

DATE: January 18, 2019

s/David Hylla
Chief Judge



AFFIDAVIT OF SERVICE

FILED
2019L 000074
2019 02 11 12:04 PM
Mark Von Nida
Circuit Court
Third Judicial Circuit, Madison County Illinois

CASE NUMBER: 2019L000074 MULT.SER. 1 DOC. TYPE: LAW
DIE DATE: 02/11/2019 RECEIVED DATE: 2/5/2019 12:00:00 PM FILED DATE: 01/18/2019 DIST: 604 DC

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DEFENDANT
ARKRAY USA INC
208 S LASALLE ST
CHICAGO, IL 60604
814

FOR TIGN

PLANTIFF
TOMERLIN, WILLIAM KEVIN
ATTORNEY
RONALD A ROTH
2421 CORPORATE CENTRE DR 200
GRANITE CITY, IL 62040
(618) 931-5000

ATTACHED FEE AMOUNT:
SERVICE INFORMATION: NATL REG AGTS

I CERTIFY THAT I SERVED THE DEFENDANT/RESPONDENT AS FOLLOWS:

(1) PERSONAL SERVICE:

BY LEAVING A COPY OF THE WRIT/ORDER WITH THE DEFENDANT/RESPONDENT PERSONALLY, AND INFORMING DEFENDANT/RESPONDENT OF CONTENTS.

(2) SUBSTITUTE SERVICE:

BY LEAVING A COPY OF THE SUMMONS AND COMPLAINT AT THE DEFENDANT'S USUAL PLACE OF ABODE WITH A FAMILY MEMBER OR PERSON RESIDING THERE, 13 YEARS OR OLDER, AND INFORMING THAT PERSON OF THE CONTENTS OF THE SUMMONS. ALSO, A COPY OF THE SUMMONS WAS MAILED TO THE DEFENDANT AT HIS OR HER USUAL PLACE OF ABODE ON THE _____ DAY OF _____ 20____

(3) UNKNOWN OCCUPANTS:

BY LEAVING A COPY OF THE SUMMONS AND COMPLAINT NAMING "UNKNOWN OCCUPANTS" WITH A PERSON OF THE AGE OF 13 OR UPWARDS OCCUPYING SAID PREMISE.

(4) CORP/CO/BUS/PART:

BY LEAVING THE APPROPRIATE NUMBER OF COPIES OF THE SUMMONS, COMPLAINTS, INTERROGATORIES, JUDGMENTS, CERTIFICATIONS AND NOTICES WITH THE REGISTERED AGENT, AUTHORIZED PERSON OR PARTNER OF THE DEFENDANT CORPORATION
✓ COMPANY _____ BUSINESS _____ PARTNERSHIP _____

(5) PROPERTY RECOVERED:

NO ONE PRESENT TO RECEIVE ORDER OF COURT. ORDER POSTED IN PLAIN VIEW.

(6) S.O.S./D.O.I.:

BY LEAVING THE SUMMONS AND COMPLAINT WITH THE SECRETARY OF THE STATE/DIRECTOR OF INSURANCE OF THE STATE OF ILLINOIS, AN AGENT OF SAID DEFENDANT LISTED ABOVE. ANY AGENT OF SAID CORPORATION NOT FOUND IN THE COUNTY OF COOK.

(7) CERTIFIED MAIL

***** COMPLETE THIS SECTION IF WRIT IS A THIRD PARTY CITATION/GARNISHMENT *****

(8) AND BY MAILING ON THE _____ DAY OF _____ 20____ A COPY OF THE THIRD PARTY GARNISHMENT/CITATION SUMMONS AND NOTICE TO THE JUDGMENT DEBTOR'S LAST KNOWN ADDRESS AS INDICATED IN THE NOTICE WITHIN (2) BUSINESS DAYS OF SERVICE UPON GARNISHEE/THIRD PARTY DEFENDANT.

THE NAMED DEFENDANT WAS NOT SERVED FOR THE GIVEN REASON BELOW:

- | | | |
|----------------------|---------------------------------------|----------------------------------|
| ____ (01) NO CONTACT | ____ (05) WRONG ADDRESS | ____ (09) DECEASED |
| ____ (02) MOVED | ____ (06) NO SUCH ADDRESS | ____ (10) NO REGISTERED AGENT |
| ____ (03) EMPTY LOT | ____ (07) EMPLOYER REFUSAL | ____ (11) OUT OF COOK COUNTY |
| ____ (04) NOT LISTED | ____ (08) CANCELLED BY PLAINTIFF ATTY | ____ (12) OTHER REASON (EXPLAIN) |

EXPLANATION: _____

WRIT SERVED ON: K Starks
SEX: M/F F RACE: B AGE: 40
THIS 6 DAY OF Feb, 2019
Thomas J. Dart
SHERIFF, BY: [Signature] #11069, DEPUTY

ATTEMPTED SERVICES		
DATE	TIME (AM/PM)	STAR #
6 Feb 19	12 05	11069